IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.609 OF 2005

M/s.Star Lite, Mumbai 400 007. .. Petitioner
V/s
Commissioner of Income Tax
Mumbai XVI & Ors. .. Respondents

Ms.Vasanti Patel for the Petitioner.
Smt.A.J.Kaushik for the Respondents.

CORAM: S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 09.03.2005.

P.C.:

1. Heard.

2. Rule. Returnable forthwith.

3. The Advocate on record for the revenue waives service.

4. Rule is treated on board for final hearing at this stage.

5. Having considered the available material and all the aspects, we are of the view that the application made by the Petitioner seeking extension under Section 80HHC (2) (a) of the Income Tax Act, 1961 for realisation of outstanding export proceeds requires reconsideration by the Commissioner of Income Tax, Mumbai City XVI Mumbai. It is so because it is apparent from the particulars available on record that the payment has been received, though belatedly, from the concerned parties. The Petitioner in the application seeking extension under

section 80HHC (2) (a) for realisation of outstanding export proceeds set out the ground that "the delay is due to the financial difficulties of the foreign buyer and that they they have promised to make the payment shortly". The assessee’s ground set out above suggest that it was beyond his control. We are of the view that the matter requires reconsideration by the Commissioner.

6. We, accordingly, set aside the order dated 12.3.2004 impugned in the present Writ Petition and direct the Commissioner of Income Tax, Mumbai City XVI, Mumbai to reconsider the Petitioner’s application seeking extension under Section 80HHC (2) (a) in accordance with law.

7. Rule is made absolute in the aforesaid terms. No costs.

(S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)